
Virginia Office of Emergency Medical Services
Durable Do Not Resuscitate (DDNR) Program
Regulations Governing DDNR

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TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Title of Regulation: 12VAC5-66. Regulations Governing Durable Do Not Resuscitate Orders (amending 12VAC5-66-10, 12VAC5-66-40, 12VAC5-66-50, 12VAC5-66-60, 12VAC5-66-70, 12VAC5-66-80).

Statutory Authority: § 32.1-153 of the Code of Virginia.

Effective Date: July 20, 2011.

Summary of July 20, 2011 Amendments:

These amendments to the regulations regarding DDNR orders add several definitions, specify that DDNR forms may be obtained from the Office of Emergency Medical Services' website, and allow legible electronic copies of DDNR orders to be used and recognized as valid by healthcare facilities. The changes made since publication of the proposed regulations amend and revise portions of the regulation to highlight corrections in terminology, clarify the honoring of the DDNR by all levels of healthcare providers, and allow utilization of current technology to obtain and implement the DDNR forms.

Part I Definitions

12VAC5-66-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code of Virginia to make health care decisions for him.

"Alternate Durable DNR jewelry" means a Durable DNR bracelet or necklace issued by a vendor approved by the Virginia Office of Emergency Medical Services. A Durable DNR Order must be obtained by the patient, from a physician, to obtain Alternate Durable DNR jewelry.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Commissioner" means the State Health Commissioner.

"Durable Do Not Resuscitate Order" or "Durable DNR Order" means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a form or forms authorized by the board to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest. For purposes of

this chapter, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitative medications, and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order or other DNR Order is not and shall not be construed as an advance directive. When used in these regulations, the term "Durable DNR Order" shall include any authorized Alternate Durable DNR jewelry issued in conjunction with an original Durable DNR Order.

"Emergency Medical Services" or "EMS" means the services rendered by an agency licensed by the Virginia Office of Emergency Medical Services, an equivalent agency licensed by another state or a similar agency of the federal government when operating within this Commonwealth.

"Emergency medical services agency" or "EMS agency" means any agency, licensed to engage in the business, service, or regular activity, whether or not for profit, of transporting and/or rendering immediate medical care to such persons who are sick, injured, wounded or otherwise incapacitated or helpless.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, withholding, or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent, or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf or dysphasic or have other communication disorders but who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision. The determination that the patient is "incapable of making an informed decision" shall be made in accordance with § 54.1-2983.2 of the Code of Virginia.]

"Office of EMS" or "OEMS" means the Virginia Office of Emergency Medical Services. The Virginia Office of Emergency Medical Services is a state office located within the Virginia Department of Health (VDH).

"Other Do Not Resuscitate Order" or "Other DNR Order" means a written physician's order not to resuscitate a patient in the event of cardiac or respiratory arrest on a form other than the authorized state standardized Durable DNR Form under policies and procedures of the health care facility to which the individual who is the subject of the order has been admitted.

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

"Qualified emergency medical services personnel" means personnel certified to practice as defined by § 32.1-111.1 of the Code of Virginia when acting within the scope of their certification.

"Qualified health care facility" means a facility, program, or organization operated or licensed by the State Board of Health or by the Department of Behavioral Health and Developmental Services (DBHDS) or operated, licensed, or owned by another state agency.

"Qualified health care personnel" means any qualified emergency medical services personnel and any licensed healthcare provider or practitioner functioning in any facility, program or organization operated or licensed by the State Board of Health, or by DBHDS or operated, licensed, or owned by another state agency.

"Respiratory arrest" means cessation of breathing.

Part III Requirements and Provisions

12VAC5-66-40. The Durable Do Not Resuscitate Order Form.

The Durable DNR Order Form shall be a standardized document, as approved by the board and consistent with these regulations. The following requirements and provisions shall apply to the approved Durable DNR Order Form.

1. Content of the Form - A Durable DNR Order Form shall contain, from a physician with whom the patient has a bona fide physician/patient relationship, a do not resuscitate determination, signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf.
2. Effective Period for a Signed Durable DNR Order - A signed Durable DNR Order shall remain valid until revoked in accordance with § 54.1-2987.1 of the Code of Virginia and 12VAC5-66-80 E or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order.
3. Durable DNR Order Form - A Durable DNR Order or Alternate Durable DNR jewelry that complies with 12VAC5-66-50 shall be valid for the purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest.
4. Availability of the Durable DNR Order Form. The Durable DNR Order Form that complies with this section or Alternate Durable DNR jewelry that complies with 12VAC5-66-50 shall be maintained and readily available to qualified health care personnel at the patient's current location or residence.
5. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order as if it were an original.
6. A patient who is traveling outside his home or between health care facilities should have an original or photocopied Durable DNR Order Other Durable DNR Order or Alternate Durable DNR jewelry accompany him.

7. Distribution of Durable DNR Order Forms - The authorized Virginia Durable DNR, Order Form shall be a standardized form available for download via the Internet from the Office of Emergency Medical Services website. The downloadable form will contain directions for completing the form and three identical Durable DNR Order Forms: one original form to be kept by the patient, the second to be placed in the patient's permanent medical record, and the third to be used by the patient for requesting Alternate Durable DNR jewelry.
8. Hard copies of the Durable DNR Order Form shall also be made available to physicians or licensed health care facilities by the Office of EMS. The Office of EMS may utilize a vendor to print and distribute the Durable DNR Order Form and a nominal fee can may be charged in an amount necessary to cover printing and shipping fees.

12VAC5-66-50. Authorized alternate forms of Durable DNR jewelry.

The board authorizes the use of Alternate Durable DNR jewelry in conjunction with the issuance of a Durable DNR Order. These Alternate Durable DNR jewelry items shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available only from a vendor approved by the Virginia Department of Health, Office of EMS. The Alternate Durable DNR jewelry must be purchased from the approved vendor by the person to whom a Durable DNR Order Form applies, or the person authorized to consent on the patient's behalf. An original Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR jewelry. Such a necklace or bracelet may be utilized either to validate the Durable DNR Order Form or in place of an original Durable DNR Order Form in the event that the original order is not readily available at the site where the person to whom the order applies is found. In order to be honored by qualified health care personnel in place of the standard Durable DNR Order Form, the Alternate Durable DNR jewelry] must contain the minimum information approved by the State Board of Health in 12VAC5-66-60.

12VAC5-66-60. Other DNR Orders.

- A. Nothing in these regulations shall be construed to preclude licensed health care practitioners from following any Other Do Not Resuscitate Order in accordance with the applicable policies and procedures of the health care facility in which they practice.
- B. Qualified health care personnel are authorized to honor any Other Do Not Resuscitate (DNR) Order as if it were a Durable Do Not Resuscitate Order when the patient is currently admitted to a hospital or other qualified health care facility or is in transit from a qualified health care facility provided that such order includes the same information as listed in subdivision 1 of 12VAC5-66-40, except that an Other DNR Order shall not be required to include the signature of the patient or a person authorized to consent for the patient on the order itself.
- C. Nothing in these regulations shall prohibit qualified health care personnel from following any direct verbal order issued by a licensed physician not to resuscitate a patient in cardiac or respiratory arrest when such physician is physically present.

Part IV
Implementation Procedures

12VAC5-66-70. Issuance of a Durable DNR Order Form or Other DNR Order.

- A. A Durable DNR Order may be issued to a patient by a physician, with whom the patient has established a bona fide physician/patient relationship, as defined by the Board of Medicine in their current guidelines, only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.
- B. The use of the authorized Durable DNR Order Form is encouraged to provide uniformity throughout the health care continuum.
- C. The authorized Durable DNR Order can be honored by qualified health care personnel] in any setting.
- D. Qualified health care personnel are authorized to honor only a Durable DNR Order on an authorized form or Alternate DNR jewelry, except as provided in 12VAC5-66-60 of these regulations.
- E. Prior to issuing a Durable DNR Order, the physician shall explain to the patient or the person authorized to consent on the patient's behalf, the alternatives available for response in the event of cardiac or respiratory arrest. If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:
 - 1. Explain the circumstances under which qualified health care personnel may follow a Durable DNR.
 - 2. Explain how to and who may revoke the Durable DNR.
 - 3. Document the patient's full legal name.
 - 4. Document the execution date of the Durable DNR Order.
 - 5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf on all three forms: the patient's copy, medical record copy, and the copy used for obtaining Alternate DNR jewelry.
 - 6. Make sure that the issuing physician's name is clearly printed and the form is signed.
 - 7. Record the contact telephone number for the issuing physician.
 - 8. Issue the original Durable DNR Order Form, and the patient and Alternate DNR jewelry copies to the patient and maintain the medical record copy in the patient's medical file.

- F. The person to whom a Durable DNR Order applies or the person authorized to consent on the patient's behalf must present the following information to the approved vendor in order to purchase and be issued an approved Alternate Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:
1. The following words: Do Not Resuscitate;
 2. The patient's full legal name;
 3. The physician's name and phone number; and
 4. The Virginia Durable DNR issuance date.

12VAC5-66-80. Durable DNR Order implementation procedures

- A. Qualified health care personnel shall comply with the following general procedures and published Virginia Durable DNR Order Implementation Protocols when caring for a patient who is in cardiac or respiratory arrest and who is known or suspected to have a Durable DNR Order in effect.
- B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until a valid Durable DNR Order, Alternate DNR jewelry, or Other DNR Order can be confirmed, as follows:
1. Determine the presence of a Durable DNR Order approved Alternate Durable DNR jewelry, or Other DNR Order.
 2. If the patient is within a qualified health care facility or in transit between qualified health care facilities, any qualified health care personnel may honor an Other DNR Order as set forth in 12VAC5-66-60.
 3. Determine that the Durable DNR form or Alternate DNR jewelry is not altered.
 4. Verify, through driver's license or other identification with photograph and signature or by positive identification by a family member or other person who knows the patient, that the patient in question is the one for whom the Durable DNR Order, Alternate DNR jewelry, or Other DNR Order was issued.
 5. If the Durable DNR Order, Alternate DNR jewelry, or Other DNR Order is intact, unaltered, and verified as issued for the patient, qualified health care personnel may consider the Durable DNR Order to it valid.
- C. Resuscitative measures to be withheld or withdrawn. In the event of cardiac or respiratory arrest of a patient with a valid Durable DNR Order, Alternate Durable DNR jewelry, or Other DNR Order under the criteria set forth in subsection B of this section, qualified health care personnel shall withhold or

withdraw cardiopulmonary resuscitation (CPR) unless otherwise directed by a physician physically present at the patient location CPR shall include:

1. Cardiac compression;
2. Artificial ventilation;
3. Defibrillation;
4. Endotracheal Intubation or other advanced airway management including supra-glottic devices such as the LMA, or other airway devices that pass beyond the oral pharynx, such as the Combi Tube, PTL etc.; or
5. Administration of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.

D. Procedures to provide comfort care or to alleviate pain. In order to provide comfort care or to alleviate pain for a patient with a valid Durable DNR Order of any type or Other DNR Order the following interventions may be provided, depending on the needs of the particular patient:

1. Airway management, including positioning, nasal or pharyngeal airway placement;
2. Suctioning;
3. Supplemental oxygen delivery devices;
4. Pain medications or intravenous fluids;
5. Bleeding control;
6. Patient positioning; or
7. Other therapies deemed necessary to provide comfort care or to alleviate pain.

E. Revocation.

1. If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order. In no case shall any person other than the patient have authority to revoke a Durable DNR Order or Other DNR Order executed upon the request of and with the consent of the patient himself.

If the patient is a minor or is otherwise incapable of making an informed decision and the Durable DNR Order or Other DNR Order was issued upon the request and with the consent of the person authorized to consent on the patient's behalf, then the expression

by said person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order].

1. The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the order; however, a new order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.
2. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision when the patient was capable of making an informed decision.

F. Documentation. When following a Durable DNR Order or Other DNR Order for a particular patient admitted to a qualified health care facility, qualified health care personnel shall document care rendered or withheld as required by facility policies and procedures. When following a Durable DNR Order or Other DNR Order for a particular patient who is not admitted to a qualified health care facility or who is in transit from a health care facility, qualified health care personnel shall document in the patient's medical record the care rendered or withheld in the following manner:

1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report).
2. Describe assessment of patient's cardiac or respiratory arrest status.
3. Document which identification (Durable DNR Order, Alternate Durable DNR jewelry, or Other DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.
4. Record the name of the patient's physician who issued the Durable DNR Order, or Other DNR Order.
5. If the patient is being transported, keep the Durable DNR Order, Alternate Durable DNR jewelry, or Other DNR Order with the patient.

G. General considerations. The following general principles shall apply to implementation of all Durable DNR Orders.

1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or Other] DNR Order, contact the patient's physician or EMS medical control for guidance.
2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order or Other DNR Order is established.

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